

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CRIMINAL JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2464 OF 2022

Devidas Dhanaji Thakare	APPLICANT
V/S	
State Of Maharashtra	RESPONDENT

ANTICIPATORY BAIL APPLICATION NO. 2471 OF 2022

Nirmala Eknath Bhadane	...APPLICANT
Vs	
State of Maharashtra	...RESPONDENT

ANTICIPATORY BAIL APPLICATION NO. 2459 OF 2022

Sanjay @ Sanju Vijaykumar Chhajad & Anr	... APPLICANTS
Vs	
State of Maharashtra	... RESPONDENT

Mr. Raviraj R. Paramane for Applicant in ABA/2464/2022
Mr. Mahendra Sandhyanshive for the applicant in ABA/2471/2022.
Mr. Aniket Nikam i/b. Adv. Piyush Tashnival for the applicants in
ABA/2459/2022
Ms. Geeta P. Mulekar, APP for Respondent-State

CORAM : NITIN W. SAMBRE, J.

DATED : 14th SEPTEMBER, 2022

P.C.:

1. Heard.
2. In all these three applications, applicants are seeking pre-arrest bail in crime no. 318 of 2022 registered with non-applicant police station for the offence punishable u/s. 306 r/w. 34 of IPC.

3. The case of the prosecution is, deceased-Dhananjay was working in the jewellery business which he was operating alongwith his younger brother. The deceased-Dhananjay was also accepting deposits/hand loans from various persons by promising return on the same.

4. All the applicants directly or through their relatives alleged to have made deposits with deceased-Dhananjay.

5. It is claimed in the prosecution story that the applicants were after the deceased-Dhanajay for refund of their money and persuaded the matter to such an extent, which has forced Dhananjay to commit suicide.

6. The contentions of learned counsels for the applicants are, the applicants are either retired employee, businessman or housewife. Their hard earned money was deposited with the deceased-Dhananjay, which he has promised to return in the form of gold or alongwith interest, which he has failed. According to them, demand for refund of admitted debt by the applicants cannot be termed as driving Dhananjay to commit suicide.

7. It is claimed by respective counsels that the legitimate demands by the applicants by itself will not amount to abatement within the meaning of section 107 of Indian Penal Code and as

such, it is claimed that the involvement of the applicants in the offence of abatement cannot be inferred.

8. Support is drawn from the orders of this Court so also the Apex Court in the following matter:-

- a. *Santosh Nathumal Goenka & Anr. Vs. State of Maharashtra*, Bombay High Court, Nagpur Bench-Criminal Application No. 2553 of 2009.
- b. *State of Maharashtra vs. Santosh Goenka & Anr.*, Supreme Court of India, SLP (Cri) 7188 of 2011
- c. *Shainath Bhimraj Kapse vs State of Maharashtra*, Bombay High Court, Aurangabad Bench - ABA/521/2020
- d. *Atish Nandkumar Mirkale vs State of Maharashtra*, Bombay High Court, Aurangabad Bench - ABA/471/2020.
- e. *Dilip and Others vs. State of Maharashtra*, 2016 SCC online Bom 5240.

9. Learned APP would oppose the prayer based on the investigation carried out and the contents in the suicide note.

10. I have considered the rival submissions based on the investigation carried out till this date.

11. The suicide note dated 20/08/2022 was recovered during the course of the investigation. The said note is authored by the deceased-Dhananjay. The fact that the death of the Dhananjay is because of the suicide is not a fact in dispute and as such the part of the ingredient of section 306 of the IPC to the said extent is satisfied.

12. This Court is now required to find out whether there was

abetment on the part of the applicants.

13. Perusal of suicide note depicts that the deceased-Dhananjay has categorized the persons to whom he owes money in three parts. The first list consists of the persons from whom the deceased was to receive the amount and such amount was not paid to him. The second list consist of all such persons from whom the deceased has taken the hand loan and was to return the same. The third list in categorical terms speaks of the persons like applicants who were responsible for the suicide of the Dhananjay.

14. It is specifically mentioned by deceased-Dhananjay in the suicide note that the applicants caused tortured/cruelty to him for money which has driven him to commit suicide.

15. The fact remains that the conduct of the applicants in the matter of alleged amount to be recovered from Dhananjay was in such a fashion which has driven him to commit suicide. As such, from the very language of the suicide note, the act of abetment on the part of the applicants can be inferred.

16. No doubt if the applicants have deposited an amount with the deceased-Dhananjay, asking refund of such amount in lawful manner cannot be termed as an offence, however the language used in the suicide note primarily demonstrate aggressive conduct

of the applicants which has driven Dhananjay to commit suicide. That being so, case of ingredients of abetment are also prima facie made out.

17. In the aforesaid background, no case for bail is made out. The applications stands rejected.

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NAIK

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(NITIN W. SAMBRE, J.)